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ONE HUNDRED FOURTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
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July 21, 2015

Ms. Katherine M. Iritani
Director
Health Care Team
U.S. Government Accountability Office
701 5th Avenue
Seattle, WA 98104

Dear Ms. Iritani:

Thank you for appearing before the Subcommittee on Health on June 24, 2015, to testify at the hearing entitled "Examining the Administration's Approval of Medicaid Demonstration Projects."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on August 4, 2015. Your responses should be mailed to Graham Pittman, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed in Word format to graham.pittman@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

Joseph R. Pitts
Chairman
Subcommittee on Health

cc: The Honorable Gene Green, Ranking Member, Subcommittee on Health

Attachment

Attachment — Additional Questions for the Record

The Honorable Representative Pitts

1. In approving 1115 waivers, CMS has provided expenditure-authority that allowed states to make new kinds of supplemental payments through the creation of uncompensated care pools. My understanding is that in many cases this authority is necessary for some states who are shifting Medicaid populations from fee-for-service to managed care and thus no longer able to make supplemental payments without a waiver. Can you explain why the shift to managed care affects a state's ability to make supplemental payments?

2. At the hearing you indicated that there is no set period of time for CMS to review and respond to a request for a new 1115 demonstration application. Is there a set period of time for CMS to review and respond to state plan amendments and other waivers, namely those authorized under section 1915(b) [managed care] and (c) [home and community based services]? If so, what is the time period established for CMS review of those state program changes and waiver applications?

3. One frustration often voiced by State officials is the time it takes to negotiate and secure an 1115 waiver. For example, in Indiana, it took the governor 2 years to negotiate the waiver for HIP 2.0. What thoughts do you have about parameters Congress could put around the process to provide some certainty for states? What policy factors would we need to think through?

4. In your testimony, you noted that demonstration approvals varied in the extent to which they provided assurances that Medicaid funding for state programs would not duplicate other potential sources of federal funding. As a result, these demonstrations run the risk of resulting in billions of dollars in duplication of federal funding. What can CMS do to avoid such potential for duplication?

5. To what extent has the use of 1115 waivers and Medicaid expenditures related to these waivers increased over time? Can you please provide a chart demonstrating their growth (in number of waivers and total dollars governed by a waiver)?

    a. Does the increase in 1115 waivers point to the need for more state flexibility in Medicaid?
    b. To what extent is the increase in expenditures related to 1115 waivers a result of the waivers not being budget neutral?

6. The Affordable Care Act included a provision that addressed a 2002 recommendation GAO made to increase the transparency of the waiver approval process. Specifically, the ACA provision, which was a result of a bipartisan effort, required HHS to issue regulations designed to ensure that the public has the opportunity to provide input on proposed section 1115 demonstration processes. In response to this provision, CMS issued regulations in February 2012. While this provision and the resulting regulations are a positive step in addressing GAO concerns, am I correct that this only addresses a rather small portion of the concerns GAO has raised with the 1115 waiver process? If so, what other changes to the 1115 waiver process has GAO recommended that have yet to be addressed?

7. GAO's report entitled "Medicaid Demonstrations: Approval Criteria and Documentation Need to Show How Spending Furthers Medicaid Objectives" raised concerns about overlap and duplication of programs funded under 1115 demonstrations with other federal funding. To what extent will GAO further review the extent of overlap and duplication resulting from 1115 demonstrations and CMS's actions to address the overlap and duplication in its annual reports on Duplication and Cost Savings?

8. States using Medicaid managed care do not, all things being equal, have CMS approval to provide federal financial participation for state programs (at least for the managed care population) that are unrelated to health care or medical services. So, it seems to me that the use of managed care would prioritize federal dollars being spent *directly on care* or its related expenses, rather than lower-priority state programs which are, at best, only tangentially connected to Medicaid's objectives. Would you agree?